

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:14-CV-412-BO

BAYER CROPSCIENCE LP
Plaintiff,

v.

ALBEMARLE CORPORATION
Defendant.

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ORDER


This cause comes before the Court on defendant's motion to exclude witnesses and for trial setting. A hearing on the trial setting of this matter was held before the undersigned on January 24, 2018, at Raleigh, North Carolina.

DISCUSSION

Defendant's motion to exclude plaintiff's witnesses identified as Ann Quinlan and David McAllister [DE 105] is DENIED. Disclosure of these witnesses was timely under both Fed. R. Civ. P. 26 and Local Civil Rule 16.1(b)(1), and defendant has failed to demonstrate that it would be prejudiced should these witnesses be permitted to testify. *See* Fed. R. Civ. P. 26(a)(1);(3) (providing distinct deadlines for initial disclosures and fact witnesses); *7-Eleven, Inc. v. McEvoy*, 300 F. Supp. 2d 352, 366 (D. Md. 2004) (in the absence of demonstrated harm, Rule 16 sanction not appropriate). Further, as plaintiff has stated in its response to the motion, Quinlan and McAllister have not been identified as expert witnesses and they shall be permitted to testify only as fact witnesses at trial. Prior to the commencement of trial, defendant shall be permitted to depose Quinlan and McAllister and may file any further motions related to their testimony, if necessary, prior to the time of trial.

Jury trial in this matter shall commence at 10:00 a.m. on Tuesday April 3, 2018, at the United States Courthouse, 306 E. Main Street, Elizabeth City, North Carolina.

SO ORDERED, this 15 day of January, 2018.



TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE